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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,381	02/29/2000	Joseph C. Anders		1109
7590	12/20/2004		EXAMINER	
Gregory M Friedlander & Associates P C 11 South Florida Street Mobile, AL 36606-1934			WEAVER, SCOTT LOUIS	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/516,381	ANDERS ET AL.
	Examiner Scott L. Weaver	Art Unit 2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 May 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 20-41,43 and 44 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-41,43 and 44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/18/04</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### *Drawings*

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because this application lacks formal drawings. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-41, and 43-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, (p.4) (ln.1) with reference to “controlled”, it is not clear if this should be ‘controlling’ or ‘controlled by’, nor as to whether the user interface of (ln.1) is in communication (ln.2-3) or if the ‘at least one database’ (ln.1-2) is in communication with .

In claim 20, (p.5) on (ln.4-6), it is not clear what is ‘including at least one digital word’ (ln.5) as this could be referring to the ‘data pack’ (ln.4) or the ‘datum’ or ‘the plurality of digital datum’ (all on ln.4), further it is not clear how the ‘at least one digital word’ (ln.5) includes at least one of the plurality of datum (ln.5) when the plurality of

digital datum is said to be including at least one digital word. Confusion may be avoided if use of commas and direct reference to what is including/comprised of what is directly stated in the claim.

In claim 20, (p.5) on (ln.7) “the call specific group” lacks antecedent basis.

In claim 20, (p.5) on (ln.15) it is not clear as to whether “the at least one database” is referring to either the database on (p.4,ln.2) or the database on (p.5,ln.13).

In claim 20, (p.5) on (ln.16 and ln.17), ‘the marking means’ lacks positive antecedent basis, previous reference is to ‘marker means’, it is not clear if these are one and the same, marking means is used subsequently in the claims so perhaps the ‘marker means’ in steps c and d is intended to refer to marking means instead?.

In claim 20, (p.5) on (ln.21), it is not clear if ‘continuing the electromagnetic signal’ should be ‘continuing to receive...’ or ‘continuing to convert...’ and similarly on (ln.22) with respect to ‘terminating’ the electromagnetic signal.

In claim 20, (p.5) on (ln.23), it is not clear which data is being referred to as “the data”; and “call” should be deleted prior to ‘preselected’ if this is referring to the same preselected data as previously and subsequently referred to.

In claim 20, (p.6) on (ln.11-13) it is not clear what is meant by storing the beginning and storing the end of the call respectively, it is not clear if this is meant to refer to storing the marking means associated with these parts of the call, or if this is supposed to =refer to a particular amount of time at the beginning of and end of an established call (such as recording of audio during a period after answer? Claim 23 contains the same confusion.

In claim 20, (p.6) on (ln.16) with reference to “the option”, it is not clear which of the list of options is being referred to as the option or if this may intend to refer to one of the options which is stored, however, this would appear to conflict with ‘associated option’ which would also be considered an option which was stored, however, each of these scenarios conflicts with step k) wherein it appears the option is not effectuated until after some comparison steps are performed.

In claim 22, (p.7) on (ln.6) “the call data” lacks positive antecedent basis, it is not clear if this is intended to refer to datum or digital word or if it refers to the audio in a telephone call.

Claim 26 contains the same confusion as noted above with respect to claim 20 where the limitations correspond in scope. Additionally, “the user” (step a) and “the call” lack antecedent basis.

### ***Conclusion***

3. The patentability of claims 20-41 and 43-44 can not be determined at this time due to the confusion noted above with respect thereto.

4. The prior art made of record and not relied on is considered pertinent to the claimed invention, all references previously made of record in the parent application should be made of record by applicant as they are considered to be known thereto.

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5. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Weaver whose telephone number is 703-308-6974. The examiner can normally be reached on Tuesday to Friday 8 AM to 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SCOTT L. WEAVER  
PRIMARY EXAMINER  
*Art Unit 2645*